IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 2983 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHANDRADAS TEKCHAND MARWANI

Versus

STATE OF GUJARAT

Appearance:

MR JC GOHIL for Petitioner

MR ST MEHTA APP for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 19/09/2000

ORAL JUDGEMENT

This Revision Application under section 401 CRPC has been preferred by the accused in Criminal Case No. 186/92.

In Criminal Case No. 186/92, the accused was tried for offence punishable under section 30 of the Gujarat Medical Practitioners' Act, 1963 (hereinafter referred to as `the Act'). Section 30 of the said Act prohibits any person who, inter alia, is not registered or is enlisted in the register maintained under the said Act or in the register or the list prepared and maintained under the Indian Medical Council Act, 1956 from practising any system of medicine in the State. It was alleged that the accused was not registered in either of the registers referred to in section 30 of the Act, and was not entitled to practice any system of medicine in the State of Gujarat. However, in violation of the said prohibition, the accused had started practising medicine in the name of 'Madhu Maternity and Surgical Home' in Odhav area of the city. Upon trial, the learned Metropolitan Magistrate, Court No. 10, Ahmedabad, who tried the offence, by his judgment and order dated 6th December, 1984, held the accused to be guilty of offence under section 30 of the Act and was liable to be punished in accordance with sub-section (2) thereof. The accused was accordingly convicted and punished with fine of Rs.500/- and SI for five days in default of payment of fine. Feeling aggrieved, the accused preferred Criminal Appeal No. 54/92. The appeal was dismissed by the learned Additional City Sessions Judge, Court No. 11, Ahmedabad, on 10th November, 1995. Feeling aggrieved, the accused has preferred the present Revision Application.

It is contended that the mandatory provisions contained in section 263 CRPC as regards the summary trial have not been complied with in as much as the learned Magistrate has not recorded the date of the offence. Besides, the offence being punishable with fine alone, the complaint ought to have been lodged within six months from the date of the offence. Since the date of the offence has not been recorded, the complaint can not be said to have been filed within six months from the date of the offence. The prosecution should, therefore, fail. It is further contended that undue importance has been given to the writing Ex. 12 and has wrongly been treated as extra judicial confession. Further, there was no proof that the accused was actually practising any system of medicine in the State of Gujarat. The offence was thus not proved and the accused has wrongly been convicted and sentenced.

I see no substance in either of the contentions raised by the accused. It is evident that the fact that the name of the accused was not entered in any of the

registers referred to in section 30 of the Act, was made known to the concerned police officer on 10th January, 1991. The commission of offence was thus disclosed on 10th January, 1991, and the complaint lodged on 15th February, 1991, therefore, can not be said to have been lodged beyond the period of limitation prescribed under section 468 CRPC. The contention whether the courts below ought to have relied upon the writing Ex. 12 or not, or what probative value should be attached to the evidence of the witness Dr. Yogendra Shah, are the issues beyond the scope of the revisional jurisdiction of this court. It is proved beyond doubt that the accused was prohibited from practising any system of medicine in the State of Gujarat. It has also been proved that the accused had been practising medicine in the city of Ahmedabad as alleged. The accused, therefore, can not be said to have been wrongly convicted for offence under section 30 (1) of the Act. The only punishment which could have been imposed by the learned Magistrate was that of fine of Rs.500/- as provided in clause (i) of sub-section (2) thereof. Neither the order of conviction nor the order of sentence warrants interference by this court.

In view of the above discussion, Revision Application is dismissed. Rule is discharged.

[Miss R.M Doshit, J.]

JOSHI